

Environmental Performance Partnership Agreement
between
The Louisiana Department of Environmental Quality
and
Region 6 of the U.S. Environmental Protection Agency

The Louisiana Environmental Performance Partnership Agreement (PPA) represents a new approach evolving between the Federal/State relationship in our joint effort to protect and enhance our natural environment. This approach was memorialized in an Agreement between the Administrator and the Deputy Administrator of the U.S. Environmental Protection Agency (EPA) and the President and the Vice President of the Environmental Council of the States (ECOS). That document outlined a process for differential oversight entitled the National Environmental Performance Partnership System (NEPPS).

This Agreement between the Louisiana Department of Environmental Quality (LDEQ) and Region 6 of the EPA, while drawing heavily on the NEPPS concept, addresses what the signatories to the Agreement believe is a more fundamental and comprehensive issue than that of oversight reform. This Agreement is an explicit attempt by its parties to find new measures and redefine the relationship between LDEQ and EPA to foster a broader sense of partnership and fully complement each agencies' use of resources to solve environmental problems. Both agencies' seek to apply the lessons learned from past experience to establish the groundwork for enhanced cooperation in other areas.

To this end, through the implementation of this Agreement, LDEQ and EPA have set up mechanisms to improve our ability to jointly target priority environmental problems, and identify activities that can be streamlined.

The following categorical grants are eligible to be combined into a Performance Partnership Grant (PPG) in the upcoming grant years. For the present, these categorical grant programs, may have funds awarded using separate grant applications which are linked to specific goals, objectives and individual outputs:

Clean Air Act, as amended in 1990

Hazardous Waste Management (Solid Waste Disposal Act, Section 3011 (a))

Water Pollution Control (106) [Surface Water and Ground Water]

Water Quality Cooperative Agreements (CWA Section 104(b)(3))

Underground Storage Tank (Solid Waste Disposal Act Section 2007 (f)(2))

Toxics Compliance and Monitoring (TSCA Section 28)

Pollution Prevention Incentives for States (PPA Section 6605)

The focus of efforts during the past two years has been to streamline communication both within LDEQ and between LDEQ and EPA. Both, EPA and LDEQ have jointly been working together to determine the structure of the Performance Partnership Grant (PPG), establish teams within each agency to begin the process, review, and provide knowledge to other staff in preparing to transition from categorical grants to the PPG.

The LDEQ restructuring helped streamline department activities, however, both EPA and LDEQ must continue to concentrate on breaking down the "stovepipe" or media-specific approaches to the environmental management. Both agencies must stress the approach of managing across traditional program boundaries so both agencies address environmental problems more holistically and effectively.

The LDEQ team consisted of the Executive staff, and other staff designated by the LDEQ Secretary. The EPA team consisted of the EPA Louisiana State Project Officer Team, and other members designated by the EPA Region 6 Louisiana Mentor/Director.

This Agreement contains seven sections as follows:

- I. Statement of General Principles.
- II. Environmental Results
 - A. Environmental Goals and Indicators
 - B. **Highlights** of Environmental Achievements
- III. Program Performance and Accountability
- IV. Enforcement and Compliance Assurance
- V. Public Involvement
- VI. Dispute Resolution Process
- VII. Statement of Commitment

I. Statement of General Principles

This Agreement represents continued evolution in the roles of both the Federal and State partners. The maturity of LDEQ programs, the growing respect by LDEQ of EPA's desire for appropriate change, and our growing history of partnership activities have set the stage for this Agreement. EPA and LDEQ realize that we can accomplish better environmental protection together. We recognize that we need each other, as well as the regulated community and the public at large, to successfully protect the natural resources in Louisiana.

The principles of this Agreement include:

- a commitment to maintain existing and future EPA delegations and authorizations to LDEQ;
- a commitment to continue existing environmental indicators and core measures until such time that replacement measures have been developed by LDEQ and EPA;
- a waiver of any administrative claim, position or interpretation either party may have with respect to the applicability or enforceability of Federal or State regulations;
- a commitment to institutionalize environmental problem solving as an operational methodology based on an environmental strategy that encourages innovation, prevention of pollution, incentive-based regulatory alternatives, and more coherent cross-media efforts to produce collaborative solutions to environmental problems;
- a commitment to actively search for meaningful environmental measures of progress that demonstrate environmental results;
- promotion of continuous improvement in approaches to protecting the environment;
- a commitment to engage stakeholders in the work associated with this agreement;
- continuous commitment to enforce existing environmental regulations;
- a pledge by both LDEQ and EPA to continue its efforts to strengthen this partnership by joint planning and priority setting, while informing and involving the public (both agencies have jointly identified environmental indicators);

- the open sharing of information and perspectives (e.g., electronic data reporting, considering Internet applications, Electronic Data Interchange (EDI), or other methods, will be provided where possible for data interchange between LDEQ, regulated facilities and EPA);
- attendance to special needs of disadvantaged peoples and communities; and
- a recognition that the responsible stewardship of financial, material and human resources of both agencies is inherent to this program.

II. Environmental Results

Under the PPA, State and Federal program managers are directed to focus more on "improving environmental results." To achieve this new focus, the PPA calls for setting environmental goals and using environmental indicators to keep better track of our progress. We see this new focus as part of the next generation of environmental protection that is starting to emerge and take shape in various ways.

Both the LDEQ and EPA Region 6 have some experience working with characterization of environmental conditions. LDEQ has historically collected ambient environmental quality data and reported findings in various ways. Under the PPA, however, we think that more attention must be paid to developing improved linkages between actual environmental conditions and program performance so that we can better assess our effectiveness over time. It should also help us to apply our resources where they will do the most good.

We see this new focus as a developmental and on-going process. This first effort is not a final product by any means, and we expect there will be refinements as we go along. Because we are embarking on this new path, we want to ensure that the principal stakeholders have ample opportunity to review what we are doing and to offer suggestions about how this should be done. For this reason, an agenda of proposed environmental goals and indicators is presented that is intended to be suitable and useful for these environmental programs.

A. Proposed Environmental Goals and Indicators

The attached Performance Partnership Grant (workplan) between the LDEQ and EPA, Region 6 contains objectives and strategies that reflect environmental goals that LDEQ will pursue. Both EPA and LDEQ see these goals as a useful way to focus more attention on environmental results and to guide program planning. EPA and LDEQ do not view these goals as specific deliverables that involve accountability for grants purposes. In other words, program success does not hinge solely on attainment of particular goals. Establishment of these environmental goals gives programs a more clear sense of direction and certainly sound performance should show some progress towards the desired outcome. It must be understood, however, that some environmental conditions are influenced by factors beyond the normal control of an environmental program. Thus, actual attainment of a goal may be compromised even though program performance went very well by most measures. Even with limitations, we believe it will still be useful to go through the goal setting process and to work on program linkages.

B. Highlights of Environmental Achievements

- LDEQ and EPA will identify highlights of environmental achievements annually.
- EPA must provide LDEQ with national guidance early in the process for LDEQ's review and input.
- EPA and LDEQ will jointly consider and/or identify state priorities and national core measures.
- Both agencies must reaffirm their commitment to integrate discussion of state priorities with national core performance measures.
- EPA and LDEQ will work together to develop meaningful outcome measures and outcome based management.

III. Program Performance and Accountability

LDEQ and EPA Region 6 recognize that various approaches have been developed over the years regarding program accountability and, in particular, planned output commitments and performance measures. Program-specific differences have resulted that often make it difficult to do comparisons across programs and to achieve equitable evaluation between media programs. While some differences may still be necessary and useful, EPA and LDEQ see benefits to the establishment of a reasonably uniform performance accountability system. EPA and LDEQ also see the need to clearly articulate certain cross-cutting performance expectations that will be applicable across all programs.

Toward this end, LDEQ and, when applicable, EPA Region 6 agree to the following multi-program performance deliverables:

- a. National environmental program information systems will be supported through timely submittal of data that is collected by the State and the EPA.
- b. Suitable fiscal controls will be operational and adequate financial reporting will be maintained.
- c. When reporting is not available electronically to EPA, reports will be provided as mandated by statute, regulations and other negotiated documents.
- d. Performance strategies will be implemented and results achieved will be described in the next self-assessment.

Furthermore, LDEQ and EPA Region 6 recognize this is a transition for LDEQ to be working under both a PPA and PPG. As such, we will be trying out the new approaches and learning from our experience. To accommodate what is learned, EPA and LDEQ may need to revise our performance expectations at appropriate times during the year. Both parties are amenable to being responsive to responsible requests for change as the circumstances may dictate.

IV. Enforcement and Compliance Assurance

The Enforcement Memorandum of Understanding (MOU) currently negotiated between the LDEQ and EPA is to establish a coordinated enforcement program that effectively contributes to improvements in the environment.

In the areas of compliance assistance and enforcement, EPA commits to establishing with the LDEQ a dynamic agreement which will fully articulate the complementary activities to be carried out in Louisiana each fiscal year.

Priorities, projects and commitments will change from year to year based on successes of the past as well as the unique concerns, interests and strengths of each agency.

The current Enforcement Memorandum of Understanding will be included in the PPG as one of the reference documents upon which negotiated activities will be judged against in the areas of compliance assistance and enforcement.

V. Public Involvement

Both the LDEQ and the EPA are publicly accountable government organizations that exist to protect human health and the environment. This Agreement is an evolving public document that can inform and guide public debate on environmental problems, goals, priorities, strategies and accomplishments; a document whose development and content over time will be in part shaped by public involvement. The Agencies commit to development and use of a mix of approaches to effectively achieve public outreach and involvement.

In the spirit of continuous improvement, LDEQ and EPA envision the establishment of processes to engage stakeholders in comment and discussion that will shape future State-EPA environmental performance agreements, including self-assessments, planning and goals-setting, and the creation and evaluation of measures of success (e.g., performance measures and progress toward environmental protection goals).

VI. Dispute Resolution Process

LDEQ and EPA Region 6 will use an agreed upon dispute resolution process to handle the conflicts that may arise as both agencies implement environmental programs and will treat the resolution process as an opportunity to improve our joint efforts and not as an indication of failure.

There are formalized programmatic conflict resolution procedures that need to be invoked if the informal route has failed to resolve all issues. 40 CFR 31.70 outlines the formal grant dispute procedures. These are all time consuming and should be reserved for the most contentious issues. For less contentious matters that cannot be resolved by the EPA Branch Manager and the LDEQ Program Administrator, we will use the following procedures when there is no resolution and two weeks have passed. There should be comparable escalation in each organization, (to the EPA Division Director and the LDEQ Assistant Secretary) accompanied by a statement of the issue and a one page issue paper. A conference call between the parties should be held as soon as possible. Disputes that persist will be raised to the EPA Regional Administrator and the LDEQ Secretary.

VII. Statement of Commitment to Quality Principles

This Agreement is hereby entered into by each of the respective agencies representatives. This Agreement becomes effective upon signature by each of the parties.



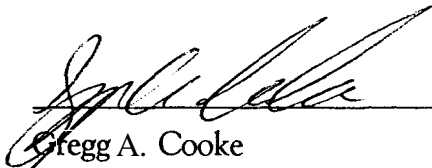
Dale Givens

Secretary

Louisiana Department of Environmental Quality

11-20-2000

Date



Gregg A. Cooke

Regional Administrator

U.S. Environmental Protection Agency

Region 6

11-14-00

Date